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**FILED**

Board of Vocational Nursing  
and Psychiatric Technicians

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9  
10 **BEFORE THE**  
11 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**  
12 **DEPARTMENT OF CONSUMER AFFAIRS**  
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

Case No. VN-2009-3134

15 **JOAN CABRERA JULATON-**  
16 **HERNANDEZ, a.k.a.,**  
17 **JOAN JULATON HERNANDEZ, a.k.a.,**  
18 **JOAN HERNANDEZ**  
1554 26th Avenue  
San Francisco, CA 94122  
Vocational Nurse License No. 183532

**A C C U S A T I O N**

19 Respondent.

20  
21 Complainant alleges:

22 **PARTIES**

23 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in  
24 her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric  
25 Technicians, Department of Consumer Affairs.

26 2. On or about January 28, 1998, the Board of Vocational Nursing and Psychiatric  
27 Technicians issued Vocational Nurse License Number 183532 to Joan Cabrera Julaton-  
28 Hernandez, a.k.a. Joan Julaton Hernandez, a.k.a. Joan Hernandez (Respondent). The Vocational

1 Nurse License was in full force and effect at all times relevant to the charges brought in this  
2 Accusation and will expire on January 31, 2012, unless renewed.

### 3 JURISDICTION

4 3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric  
5 Technicians (Board), Department of Consumer Affairs, under the authority of the following laws.  
6 All section references are to the Business and Professions Code unless otherwise indicated.

7 4. Section 2875 of the Business and Professions Code ("Code") provides, in pertinent  
8 part, that the Board of Vocational Nursing and Psychiatric Technicians ("Board") may discipline  
9 the holder of a vocational nurse license for any reason provided in Article 3 (commencing with  
10 section 2875) of the Vocational Nursing Practice Act.

11 5. Section 118, subdivision (b), of the Code provides in pertinent part that the expiration  
12 of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during  
13 the period within which the license may be renewed, restored, reissued or reinstated. Under  
14 section 2892.1 of the Code, the Board may renew an expired license within four years after the  
15 expiration.

### 16 STATUTORY/REGULATORY PROVISIONS

17 6. Section 2878 of the Code states:

18 "The Board may suspend or revoke a license issued under this chapter [the Vocational  
19 Nursing Practice Act (Bus. & Prof. Code, sections 2840, et seq.)] for any of the following:

20 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

21 . . .

22 "(f) Conviction of a crime substantially related to the qualifications, functions, and duties  
23 of a licensed vocational nurse, in which event the record of the conviction shall be conclusive  
24 evidence of the conviction.

25 . . .

26 "(j) The commission of any act involving dishonesty, when that action is related to the  
27 duties and functions of the licensee."

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1           7.       Section 2878.5 of the Code states:

2           “In addition to other acts constituting unprofessional conduct, within the meaning of this  
3 chapter, it is unprofessional conduct for a person licensed under this chapter to do any of the  
4 following:

5           “(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed  
6 physician and surgeon, dentist or podiatrist administer to himself or herself or furnish or  
7 administer to another, any controlled substance as defined in Division 10 of the Health and Safety  
8 Code, or any dangerous drug as defined in Section 4022.

9           “(b) Use any controlled substance as defined in Division 10 of the Health and Safety Code,  
10 or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an extent or in a  
11 manner dangerous or injurious to himself or herself, any other person, or the public, or to the  
12 extent that the use impairs his or her ability to conduct with safety to the public the practice  
13 authorized by his or her license.”

14          8.       Section 490 of the Code provides, in pertinent part, that a Board may suspend or  
15 revoke a license on the ground that the licensee has been convicted of a crime substantially  
16 related to the qualifications, functions, or duties of the business or profession for which the  
17 license was issued.

18          9.       Title 16, California Code Regulations section 2518.6, subsection (b)(4) states in  
19 pertinent part that a licensed vocational nurse shall abstain from chemical/substance abuse.

20          10.      Title 16, California Code Regulations section 2521 states:

21           “For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5  
22 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be  
23 considered to be substantially related to the qualifications, functions, or duties of a licensed  
24 vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed  
25 vocational nurse to perform the functions authorized by his license in a manner consistent with  
26 the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those  
27 involving the following:

28           ...

“(c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of Chapter 6.5, Division 2 of the Business and Professions Code.

• • •

“(f) Any crime or act involving the sale, gift, administration, or furnishing of “narcotics or dangerous drugs or dangerous devices” as defined in Section 4022 of the Business and Professions Code “The board shall seek to ensure that licentiates and others regulated by the board are informed of the responsibility of licentiates and others to follow infection control guidelines, and of the most recent scientifically recognized safeguards for minimizing the risk of transmission of blood-borne infectious diseases.”

## DRUGS

11. Methamphetamine is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (d)(2), and a dangerous drug as defined in Code section 4022. It is used to treat attention deficit hyperactivity disorders.

12. Prozac (generic name Fluoxetine Hydrochloride) is a dangerous drug as defined in Code section 4022. It is used to treat depression.

### FIRST CAUSE FOR DISCIPLINE

**(Conviction)**

13. Respondent has subjected her license to disciplinary action under section 2878, subdivision (f), and 490 in that on or about March 26, 2010, she was convicted by the court on her plea of nolo contendere of a violation of Penal Code section 484, subdivision (a) (petty theft) in Los Angeles County Superior Court, Case No. OPY00918, entitled *People v. Joan Hernandez*. The circumstances of the crime are that on or about February 2, 2010, Respondent willfully and unlawfully concealed and stole computer software, valued at \$99.95, from Apple Store, in Los Angeles, California. Respondent was placed on probation for one year; required to serve one day in county jail; and pay fines, assessments, and restitution.

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1           14.     Respondent's conviction as set forth in paragraph 13, above, constitutes conviction  
2 of a crime substantially related to the qualification, functions or duties of a licensed vocational  
3 nurse.

4                           **SECOND CAUSE FOR DISCIPLINE**

5                                   **(Dishonesty)**

6           15.     Respondent's conduct as set forth in paragraph 13, above, constitutes the  
7 commission of an act involving dishonesty, and is cause for disciplinary action pursuant to Code  
8 section 2878, subdivision (j).

9                           **THIRD CAUSE FOR DISCIPLINE**

10                                   **(Unprofessional Conduct/Use of Drugs)**

11           16.     Respondent has subjected her license to disciplinary action under section 2878,  
12 subdivision (a) (general unprofessional conduct), in that on or about March 27, 2010, Respondent  
13 was involved in a domestic disturbance dispute. Glendale Police Department Officers contacted  
14 Respondent and she advised the officers that she smoked methamphetamine on March 26, 2010.  
15 A search of Respondent's bag revealed 50 Prozac pills without a prescription, methamphetamine,  
16 and four glass pipes, commonly used for smoking methamphetamine. Respondent admitted to the  
17 arresting officer that the Prozac belonged to her mother and that she takes her mother's Prozac  
18 because she does not have insurance for her own prescription. Respondent also admitted that the  
19 methamphetamine and one plastic pipe and three glass pipes belonged to her.

20                           **FOURTH CAUSE FOR DISCIPLINE**

21                                   **(Possession of Controlled Substance)**

22           17.     Respondent's conduct as set forth in paragraph 16, above, constitutes possession of  
23 a controlled substance, and is cause for disciplinary action pursuant to Code section 2878, in  
24 conjunction with Code section 2878.5, subdivision (a).

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Use of Controlled Substance)**

3 18. Respondent's conduct as set forth in paragraph 16, above, constitutes use of a  
4 controlled substance, and is cause for disciplinary action pursuant to Code section 2878, in  
5 conjunction with Code section 2878.5, subdivision (b).

6 **PRAYER**

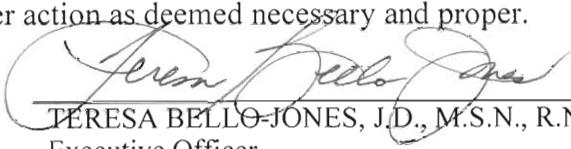
7 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
8 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians  
9 issue a decision:

10 1. Revoking or suspending Vocational Nurse License Number 183532, issued to Joan  
11 Cabrera Julaton-Hernandez, a.k.a. Joan Julaton Hernandez, a.k.a. Joan Hernandez;

12 2. Ordering Joan Cabrera Julaton-Hernandez, a.k.a. Joan Julaton Hernandez, a.k.a. Joan  
13 Hernandez to pay the Board of Vocational Nursing and Psychiatric Technicians the reasonable  
14 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
15 Code section 125.3;

16 3. Taking such other and further action as deemed necessary and proper.

17 DATED: April 26, 2011.

  
TERESA BELLO-JONES, J.D., M.S.N., R.N.  
Executive Officer  
Board of Vocational Nursing and Psychiatric Technicians  
Department of Consumer Affairs  
State of California  
*Complainant*